

SERVICE DATE – APRIL 30, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35807

OAKLAND GLOBAL RAIL ENTERPRISE, LLC—ACQUISITION AND OPERATING  
EXEMPTION—IN THE PORT OF OAKLAND, CAL.

Decided: April 30, 2014

On February 7, 2014, Oakland Global Rail Enterprise, LLC (OGRE), a noncarrier, filed a verified notice of exemption under 49 C.F.R. § 1150.31 to operate over approximately 19.1 miles of track located in the Port of Oakland (Port), Alameda County, Cal. OGRE stated that it planned to (1) construct and operate over 6.24 miles (32,960 feet) of track within the Port on property owned by the City of Oakland, Cal. (City), which runs from the Northwest portion of the Port adjacent to West Burma Road to connections with track owned by the Port and/or Union Pacific Railroad Company (UP) on the Martinez Subdivision; and (2) operate over 11.5 miles (60,670 feet) of track owned by the Port, which runs through the central Port area and is adjacent to the tracks owned by UP on the Martinez Subdivision; (3) operate over 1.4 miles of track owned by BNSF Railway Company (BNSF), which is known as the Wood Street Yard, and, on occasion, 500 feet of track owned by UP, which connects with the Port track; and (4) operate over various industry track in the area. OGRE stated that it entered into a formal agreement (Agreement) with the Port, the City, BNSF, and UP, pursuant to which OGRE would construct approximately 6 miles of new track and provide common carrier rail service to various industries within the Port over the tracks described above.

In a decision served on February 21, 2014, the Board directed OGRE to file supplemental information describing, in detail, whether the activities at issue included construction of a line of railroad subject to the Board's licensing authority and, if so, why it had not sought Board authority for the construction within the Port. Pursuant to a request from OGRE, the deadline for its response was extended to March 24, 2014.

On March 24, 2014, OGRE filed the supplemental information requested by the Board and a motion to withdraw, without prejudice to any action it might take in the future to become a rail carrier, the notice of exemption it filed on February 7, 2014. In its motion to withdraw, OGRE clarifies that it would not construct any track for several years after commencing operations. Instead, OGRE states that it intends to operate exclusively over existing UP and BNSF track to serve customers in the Port until such time as the Port and City start and complete the track construction that is part of their planned redevelopment project.<sup>1</sup> OGRE states that,

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<sup>1</sup> It appears that the track construction activity that OGRE states is planned by the Port and the City may involve construction of a line of railroad, which would require Board

before it begins conducting rail activities over existing UP and BNSF track in 2015, it will file a new notice of exemption seeking operating authority.

OGRE further clarifies that, at some future point, once industries have located in that section of the Port facility, it intends to build 15,000 feet of what it believes to be ancillary track subject to 49 U.S.C. § 10906, connected to the track owned by the City. OGRE states that the construction of 32,960 feet of track described in the notice is actually the total length of track that the City and OGRE collectively would construct at later development stages of the Port expansion.

In light of the supplemental information that it has provided, OGRE's motion to withdraw its notice of exemption without prejudice will be granted.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. OGRE's motion to withdraw its notice of exemption without prejudice is granted.
2. A copy of this decision will be served on the Port and on the City.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

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authorization under 49 U.S.C. § 10901. The Board will serve this decision on the Port and the City, and any questions as to whether this construction requires Board authority may be directed to the Board's Office of Public Assistance, Governmental Affairs and Compliance.